

**STATE OF INDIANA – COUNTY OF ST. JOSEPH
IN THE ST. JOSEPH CIRCUIT, SUPERIOR AND PROBATE COURTS**

**AMENDED Notice of Proposed Local Rule Amendment and Finding Good
Cause to Deviate From Established Schedule
August 3, 2020**

The judges of the St. Joseph Circuit, Superior, and Probate Courts, pursuant to Trial Rule 81(B), give notice of amendments to the local court rules and find good cause to deviate from the schedule for amending local rules under Trial Rule 81(D). All new text is shown by underlining and deleted text is shown by ~~strike through~~. [Supreme Court approval is required for Local Rules concerning Caseload Allocation Plan and may not take effect until approved by the Supreme Court.

AMENDED Notice has been given to the public by posting on the website of the St. Joseph Courts and on the Indiana Judicial Website, and by furnishing a copy to the officers of the St Joseph County Bar Association. Comments may be made until September 3, 2020, to:

Lisa A. Plencner, Court Administrator of the St. Joseph Circuit Court, Attn: Public Comment on Local Rules, St. Joseph County Courthouse, 101 S. Main Street, Room 223, South Bend, Indiana, 46601; or lplencner@sjcindiana.com

These rule amendments will be effective on January 1, 2021, and after approval of the Indiana Supreme Court for those rules requiring approval.

DATED this 3rd day of August, 2020 on behalf of the Judges of St. Joseph County.

*Hon. John E. Broden
Judge, St. Joseph Circuit Court*

*Hon. Elizabeth Hurley
Chief Judge, St. Joseph Superior Court*

*Hon. Jason Cichowicz
Judge, St. Joseph Probate Court*

**APPENDIX A TO LOCAL GENERAL AND ADMINISTRATIVE RULES, 100
SERIES**

**CASELOAD ALLOCATION PLAN
FOR COURTS IN ST. JOSEPH COUNTY, INDIANA**

I. Organization of the Courts of St. Joseph County:

As of January 1, 2011, the Courts of St. Joseph County are organized and assigned judicial officers as follows:

- (1) St. Joseph Circuit Court – one (1) judge and three (3) magistrate judges;
- (2) St. Joseph Superior Court – eight (8) judges and four (4) magistrate judges; and
- (3) St. Joseph Probate Court – one (1) judge and three (3) magistrate judges.

II. Designation of Judicial Officers to Hear Civil, Criminal and Juvenile Cases:

(1) Judicial Officers Designated to Hear Civil Cases: Civil Cases (other than small claims matters) shall be heard by the judge and the magistrate judges of the Circuit Court and by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear civil cases;

(2) Judicial Officers Designated to Hear Felony Criminal Cases: Felony criminal cases shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear felony criminal cases;

(3) Judicial Officers Designated to Hear Small Claims Cases: Small claims matters shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear small claims matters;

(4) Judicial Officers Designated to Hear Traffic and Misdemeanor Cases: Unless otherwise assigned to a felony criminal court for judicial economy because a defendant has pending felony, misdemeanor and/or probation revocation matters, traffic

and misdemeanor matters shall be heard by the judges and/or magistrate judges of the Superior Court designated by the Chief Judge of the Superior Court to hear traffic and misdemeanor matters.

(5) Judicial Officers Designated to Hear Paternity (JP), Delinquency, (JD), CHINS (JC), Juvenile Status (JS), and Adoption Cases (AD): shall be assigned to the Judge of the Probate Court unless the Judge assigns the matter to be heard by a magistrate judge of the Probate Court. ~~However, to remedy caseload imbalance, effective October 1, 2017, the Prosecutor of St. Joseph County shall file forty percent (40%) of prosecutor initiated JP cases in the Odyssey e-filing system and those cases shall be assigned on an alternating bases, one to the civil division of the Superior Court and one to the Circuit Court, such that there is an equal division of these JP cases between Circuit and Superior Courts. The JP cases assigned to the Superior Court shall be divided equally among the three Superior Court judges sitting in South Bend.~~ Notwithstanding any other provision of this rule, cases designated ES, EU, GU, and TR may continue to be filed in any of the courts consistent with traditional practice in St. Joseph County.

(6) Judicial Officers Designated to Hear Title IV-D Cases: Pursuant to LR71-FL00-430 et seq., Title IV-D Cases may be assigned to the Title IV-D Court and heard by a magistrate judge of the Circuit, Superior, or Probate Court designated to preside over Title IV-D hearings.

III. Protocol for Assignment of Cases Among the Courts of St. Joseph County:

(1) Civil cases (other than SC, JD, JC, JS, JM, AD, and JT): With the exception of paternity cases (JP) discussed in subparagraph 5 above, and cases traditionally assigned to the Probate Court as the court with traditional exclusive jurisdiction over juvenile cases (CHINS, delinquency, dependency, adoption, etc.) or to the Circuit Court (license reinstatement, name changes, health department enforcement cases, TS and TP, etc.), civil cases (other than SC) shall be assigned randomly among the judges and/or magistrate judges of the Circuit Court and the Superior Court designated to hear civil matters as follows:

- A. Circuit Court shall receive a total of 60% of all upper civil filings and Superior Court shall receive 40% of all upper civil filings.

- B. Four (4) civil judges in Superior Court shall receive as follows: the three Superior judges sitting in South Bend shall each receive approximately 28% of the 40% of the upper civil filings, and the judge sitting in Mishawaka shall receive approximately 16% of the 40% of the upper civil filings.
- C. Circuit Court shall have a Mishawaka Division with one (1) Circuit Court magistrate presiding and a South Bend Division with the Circuit Court judge and two (2) magistrates presiding.
- D. Superior Court shall have a Mishawaka Division with one (1) Superior Court judge presiding and a South Bend Division with three (3) Superior Court judges and four (4) magistrate judges presiding.
- E. Civil cases (other than SC cases) may be filed in Circuit Court and Superior Court in South Bend or Mishawaka, Indiana as follows:
 - (a) The City of Mishawaka, the School City of Mishawaka, or a resident of the City of Mishawaka where all defendants are residents of the City of Mishawaka shall designate all of their cases for filing with the Mishawaka Division of Superior and Circuit Courts. The Clerk shall assign these cases on an alternating bases to ensure equal distribution of those filings between the Mishawaka Divisions of those courts.
 - (b) All attorneys and business entities with their principal places of business and all individuals with their principal residences located east of Logan Street but within St. Joseph County may either:
 - i. file their civil cases (other than SC cases) without designation, in which case they will be assigned randomly to the Mishawaka Division of the Superior and Circuit Courts or to one (1) of the three (3) judges of the civil division of the Superior Court or the judge of the Circuit Court; or
 - ii. file their civil cases (other than SC cases) for filing in the Mishawaka Division of Superior and Circuit Courts in which case they will be assigned on an alternating basis to ensure equal distribution of those filings between the Mishawaka Divisions of those courts.

F. For all civil case filings other than SC cases not designated for filing in the Mishawaka Divisions of the Circuit and Superior Court, a seventeen (17) case assignment rotation cycle shall be utilized with each seventeen (17) cases assigned as follows:

Ten (10) cases for Circuit Court (approximately 60%)

Seven (7) for Superior Court (approximately 40%), with 2 out of 7 going to each of the South Bend Superior Court judges and 1 out of 7 going to the Mishawaka Superior Court judge.

Circuit Court shall from time to time designate three (3) cases (17.65% of the Circuit cases) or four (4) cases (23.53% of the Circuit cases) of each of the ten (10) Circuit Court cases in each assignment rotation cycle to go to the Circuit Court magistrate judge sitting in Mishawaka to which direct filings will be added in order to achieve whatever total percentage of cases the Circuit Court judge wants in the Circuit Court Mishawaka Division.

The Chief Judge of the Superior Court shall, from time to time, reallocate civil cases from the Mishawaka Division to the South Bend Division to ensure there is an approximate weighted caseload allocation among the four (4) judges of the Superior Court's Civil Division.

(2) Felony Criminal Cases: With the exception of criminal cases that must be assigned to the Circuit Court by L71-CR2.2-303.1 or -303.2, felony criminal cases shall be assigned randomly among the judges and/or magistrate judges of the Superior Court designated to hear criminal cases as follows:

- A. The Superior Court judge assigned to Drug Court will be assigned all felony level 5 and 6 drug cases (given a "D01" designation) but no other level 6 felonies.
- B. The remaining level 6 felonies will be randomly and evenly assigned to the other three (3) Superior Court criminal judges.
- C. All MR and all other felony cases (levels 1 through 5) will be randomly and evenly assigned to the four (4) Superior Court criminal judges.

However, and notwithstanding this method of random assignment, in all felony criminal cases, except MR cases, where co-defendants are charged, cases shall be reassigned to a single judge or magistrate judge, as follows: (a) where co-defendants have been equally assigned to different judges, the judge having the lowest assigned cause number shall be assigned/reassigned all co-defendant cases; or (b) in the event that co-defendants have been unequally assigned to different judges, the judge having the greatest number of co-defendants shall be assigned/reassigned all co-defendant cases. Further, the Chief Judge of the Superior Court may reassign cases involving a defendant who has a pending case to the judge presiding over the earliest assigned cause number. The Chief Judge of the Superior Court may reassign MR cases or other felony cases where such reassignment is in the interest of judicial economy or dictated by the weighted caseload balancing requirements.

(3) SC Cases: Superior Court has a Small Claims Division with two (2) locations: South Bend and Mishawaka. All SC cases shall be assigned to the Small Claims Division in South Bend and assigned to that Division at the South Bend location, except for the following:

- A. All SC cases filed by the City of Mishawaka, the School City of Mishawaka, or a resident of the City of Mishawaka where all defendants are residents of the City of Mishawaka, shall be designated for filing in Mishawaka and shall be assigned to the Small Claims Division of Superior Court in Mishawaka.
- B. All SC cases filed by attorneys and business entities with their principal places of business and individuals with their principal residences located east of Logan Street but within St. Joseph County may, at the filer's discretion:
 - a. File their SC cases without designation, in which case they will be assigned to the South Bend Small Claims Division; or
 - b. Designate their SC cases for filing in the Mishawaka Division, in which case they will be assigned to the Small Claims Division's Mishawaka location.
- C. The four (4) Superior Court magistrates work equally for each one of the eight (8) Superior Court judges; therefore, for case allocation reporting

purposes: each Superior Court judge is assigned: 1/8th of all SC cases assigned to the Small Claims Division's South Bend location. The Superior Court civil judge sitting in Mishawaka is also assigned all:

- a. PO cases designated for filing in Mishawaka. These cases will be assigned by the Clerk to the Small Claims Division's Mishawaka location;
- b. All TR cases designated for filing in Mishawaka;
- c. All EU, ES and EM cases designated for filing in Mishawaka; and
- d. All GU cases designated for filing in Mishawaka

(4) Traffic and Misdemeanor Cases: Superior Court has a Traffic and Misdemeanor Division located in South Bend. All TM, CM, IF, and OV cases shall be assigned to the Traffic and Misdemeanor Division. All CM, IF, or OV cases in which a jury demand is granted shall be assigned to the Superior Court in Mishawaka for all further proceedings.

The four (4) Superior Court magistrates work equally for each one of the eight (8) Superior Court judges; therefore, their handling of all traffic and misdemeanor cases shall be assigned as follows for case allocation reporting purposes:

A. 1/8th of all CM, IF, and OV cases (less new misdemeanor cases sent to Mishawaka Traffic and Misdemeanor due to jury trial requests) will be assigned equally to each of the eight (8) Superior Court judges.

B. In addition, the Superior Court judge in the Mishawaka Division will also be assigned, for case allocation purposes, all CM, IF, and OV cases transferred to Mishawaka Division for jury trial requests.

(5) Mental Health Cases: All MH cases will be divided equally among the four (4) Superior Court civil judges.

(6) Paternity, CHINS, Delinquency, Dependency, and Adoption Cases: All paternity, CHINS, delinquency, dependency, and adoption cases shall be filed in Probate Court.

(7) Separate petitions for specialized driving privileges shall be filed in the St. Joseph Circuit Court; however, petitions for post conviction relief (PCR) or requests for relief from suspensions entered in a pending criminal cause of action shall be filed before the court that issued the judgment of sentence or interlocutory suspension.

(8) Protective Order (PO) Cases: Petitions for civil orders of protection alleging domestic violence (DV), sexual assault, or stalking shall be filed in the Circuit Court and assigned to the Civil Protective Order Court, with the exception of the following matters:

a. Cases filed directly with a Court that has already assumed jurisdiction over a dissolution of marriage, paternity, child in need of services (CHINS), or delinquency proceeding involving the parties;

b. Cases designated for filing in the Mishawaka Division of Superior Court;

c. Cases filed as plenary cases in South Bend. Plenary cases shall be randomly assigned based on subparagraph (1) *supra*. PO cases may be filed at any Courthouse in St. Joseph County, the Family Justice Center, and any other place designated by the Judicial Executive Committee (as defined in DR04-AR00-3). PO hearings shall be set according to a written schedule that shall be developed by the Judicial Executive Committee or by the regularly presiding judge of the applicable court. Workplace violence cases shall be randomly assigned based on subparagraph (1) *supra*.

IV. Exceptions to the Protocol for Assignment of Cases:

(1) Mass Filing of Collection Cases (other than SC): Upon request and designation by the Judge of the Circuit Court and the Chief Judge of the Superior Court, a lawyer or law firm may be approved to make mass filing of collection cases (other than SC). Unless otherwise directed by the Judge of the Circuit Court or the Chief Judge of the Superior Court based on weighted caseload balancing requirements or otherwise, cases filed by a lawyer or law firm approved for mass filing shall be assigned to the Circuit Court.

(2) Special Judge or Transfer: Nothing in these local rules shall be interpreted to prevent a party from taking a change of judge or requesting transfer of a case as otherwise authorized by statute or rule of court.

(3) Temporary or Permanent Assignment of Cases: Nothing in these local rules shall be interpreted to prevent the regularly presiding judge of a Court from assigning a case on a temporary or permanent basis to a Magistrate Judge, Special Judge, Senior Judge, Temporary Judge, Judge Pro Tem, Referee, or other duly appointed judicial officer.

(4) Caseload Balancing: Nothing in these local rules shall be interpreted to prevent the Judge of the Circuit Court, the Chief Judge of the Superior Court or the Judge of the Probate Court, from reassigning a case for the purpose of caseload balancing based on the weighted caseload criteria or other caseload balancing criteria.

(5) Emergency or Exigent Circumstances: Nothing in these local rules shall be interpreted to prevent the Judge of the Circuit Court, the Chief Judge of the Superior Court, or the Judge of the Probate Court, either jointly or individually, from assigning a case based on emergency or exigent circumstances.

V. Authority and Effective Date:

(1) This Caseload Allocation Plan is adopted pursuant to the requirements of A.R. 1 (E) and LR71-AR1-107.1

(2) The effective date of this amended Caseload Allocation Plan is January 1, 2021.